

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

LINDA E. HEEBNER,	:	
Plaintiff	:	DOCKET NO.: 2:10-cv-02381-
	:	MSG
v.	:	
	:	CIVIL ACTION - LAW
NATIONWIDE INSURANCE	:	
ENTERPRISE,	:	JURY TRIAL DEMANDED
Defendant	:	

ORDER

AND NOW, upon consideration of Plaintiff's Motion for Judgment, it is hereby ORDERED and DECREED that Plaintiff's request for Declaratory Judgment as to Count I of Plaintiff's Amended Complaint is hereby GRANTED. Nationwide's insurance coverage to Plaintiff includes coverage of the delay damages awarded by the trial court pursuant to Pa.R.C.P. 238. Nationwide is to pay said amount plus applicable statutory interest within 30 days of the signing of this Order.

BY THE COURT:

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

LINDA E. HEEBNER,	:	
Plaintiff	:	DOCKET NO.: 2:10-cv-02381-
	:	MSG
v.	:	
	:	CIVIL ACTION - LAW
NATIONWIDE INSURANCE	:	
ENTERPRISE,	:	JURY TRIAL DEMANDED
Defendant	:	

PLAINTIFF'S MOTION FOR JUDGMENT

The Plaintiff, LINDA E. HEEBNER, by and through her attorney, Scott F. Breidenbach of Breidenbach Associates Law Offices, LLC, respectfully requests a Declaratory Judgment as to Count I of Plaintiff's Amended Complaint declaring that Nationwide's insurance coverage to Plaintiff includes coverage of the delay damages awarded by the trial court pursuant to Pa.R.C.P. 238 for the following reasons to wit:

1. Plaintiff, Linda Heebner, filed this action for a declaratory judgment in Berks County Court of Common Pleas to resolve her dispute with Defendant, Nationwide Insurance Enterprises (hereafter "Nationwide"), as to whether Nationwide's insurance coverage included an obligation to pay delay damages awarded her by the trial court, pursuant to Pa.R.C.P. 238 and as to whether Nationwide had been acting in bad faith. (See Plaintiff's Amended Complaint attached hereto and incorporated herein as Exhibit A)


2. Nationwide removed the action to this Honorable Court and filed a motion to dismiss as to Plaintiff's Count I – Declaratory Judgment and Count II – Bad Faith.
3. By Memorandum Opinion and Order of September 28, 2011 (hereafter “Decision”), Nationwide's motion to dismiss was denied as to Count 1 (Declaratory Judgment) and granted as to Count II (Bad Faith). (See Your Honor's 9/28/11 Memorandum Opinion attached hereto and incorporated herein as Exhibit B and Your Honor's 9/28/11 Order attached hereto and incorporated herein as Exhibit C)
4. The Decision held that the relevant facts are straightforward and undisputed. (See Exhibit B at 1)
5. The interpretation of the insurance contract coverage presents only an issue of law.
6. The Decision effectively decided this litigation by holding “we ... conclude that delay damages are covered,” (See Exhibit B at page 10)
7. This Motion for Declaratory Judgment is presented in accordance with the September 28, 2011, Order which directed the filing of same. (See Exhibit C)

WHEREFORE, Plaintiff respectfully requests a Declaratory Judgment as to Count I of Plaintiff's Amended Complaint declaring that Nationwide's insurance coverage to Plaintiff includes coverage of the delay damages awarded by the trial court pursuant to Pa.R.C.P. 238.

Plaintiff further requests that Nationwide be directed to pay said amount plus applicable statutory interest within 30 days of the Order.

Respectfully Submitted,

BREIDENBACH ASSOCIATES LAW OFFICES, LLC

A handwritten signature in black ink, appearing to read "Scott F. Breidenbach", written over a horizontal line.

Scott F. Breidenbach, Esquire

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Counsel for Plaintiff

Dated: September 30, 2011